

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 18,227
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision of the Department of Prevention, Assistance, Transition, and Health Access (PATH) denying him coverage for acupuncture treatments under the Vermont Health Access Program (VHAP).

FINDINGS OF FACT

1. The petitioner is a VHAP recipient who is in treatment for tendonitis in his left arm. The petitioner applied last December for acupuncture treatments for his condition at the suggestion of his physician and physical therapist. He was notified by PATH in mid-December that acupuncture treatments are not covered under the VHAP program.

2. The petitioner appealed on December 27, 2002 and a hearing was scheduled for January 7, 2003 and rescheduled at the parties' request for February 13, 2003. At that time, the petitioner presented his own testimony but presented no medical evidence in support of his claim. The petitioner testified, credibly, that he had been treated successfully

with acupuncture in the past for medical problems. He said that his other therapies had not been effective and that he felt acupuncture would be worth a try, would be safe because acupuncturists are licensed and would likely be less expensive than other therapies. He felt that PATH's position was "arbitrary and capricious" in denying his request.

3. The petitioner was advised at the hearing that he needed written documentation from his medical providers of his condition and their recommendations. He was also advised that the Board has upheld PATH's refusal to pay for acupuncture therapy for any recipients in the past and was told that he could obtain copies of these decisions from the Board office in order to prepare his arguments. The petitioner indicated that he would file additional information and legal argument and the record was left open to do so.

4. The petitioner has filed no further evidence in the four months since the hearing was held.

ORDER

The Department's decision is affirmed.

REASONS

PATH's Medicaid regulation, which applies to VHAP coverage as well, states that "[a]cupuncture and services

performed in connection with acupuncture are not covered."

M618. PATH has taken this position because the efficacy of acupuncture as a treatment for various conditions has not been scientifically established and because the treatments are not performed by its professional medical providers. See Fair Hearing No. 15,645. The petitioner argues that this policy is arbitrary and capricious but he has presented no evidence challenging PATH's position.

As the Department's decision denying VHAP acupuncture coverage to the petitioner is in accordance with its regulations, the Board is bound to uphold the Department's decision. 3 V.S.A. § 3091(d). See Fair Hearing Rule 17.

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